

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION**

OLIVIA Y., et al.

PLAINTIFFS

v.

CIVIL ACTION NO. 3:04CV251LN

HALEY BARBOUR, as Governor of the State of Mississippi, et al.

DEFENDANTS

**UNOPPOSED MOTION TO PLACE EXHIBIT 5 TO ORIGINAL DECLARATION OF  
SHIRIM NOTHENBERG UNDER SEAL**

Plaintiffs’ respectfully move this Court pursuant to Local Uniform Civil Rule 79 to place Exhibit 5 to the Declaration of Shirim Nothenberg, Docket number 515-5, filed October 5, 2010, UNDER SEAL. Exhibit 5 is the Termination of Parental Rights Assessment Final Report conducted by Defendants’ consultant, dated November 24, 2009 (“TPR Assessment”). Plaintiffs inadvertently included the appendices to the TPR Assessment as part of Exhibit 5. These appendices reveal confidential, individually-identifying information about members or former members of the Plaintiff class, their families, and persons included in their case files of the type covered by this Court’s Confidentiality Order dated August 5, 2004, a copy of which is attached hereto as Exhibit A.

Paragraph Two of the Confidentiality Order states:

Any individually-identifying information . . . regarding any plaintiff child, such child’s family members, foster family members, and persons included in any case files as the source of information concerning the child – including but not limited to these persons’ names, addresses, telephone numbers, social security numbers, dates of birth, and other individual information likely to enable a reasonable member of the general public to ascertain their identities – is hereby designated to be confidential.

The appendices that are included in Exhibit 5 include DFCS records and reports that reveal individually-identifying information concerning minor Plaintiffs. Such confidential information is protected by Paragraph Two of the Court's Confidentiality Order.

Plaintiffs have moved to withdraw the original Declaration of Shirim Nothenberg and the attached exhibits. (Doc. No. 545, filed Dec. 23, 2010.) However, as Defendants have indicated that they may respond to the motion to withdraw, and in order to deal with this matter as expeditiously as possible and to prevent the dissemination of any confidential information, Plaintiffs now move the Court to place Exhibit 5 under seal. Defendants have no objection to sealing Exhibit 5 to the original Nothenberg Declaration.

Accordingly, Plaintiffs request that the Court place Exhibit 5 to the Declaration of Shirim Nothenberg filed October 5, 2010, under seal. A proposed order is attached.

Respectfully submitted, this 27th day of December, 2010.

/s/ Jessica Polansky  
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# CERTIFICATE OF SERVICE

I hereby certify that on December 27, 2010, I electronically filed the foregoing Unopposed Motion to Place Exhibit 5 to Original Declaration of Shirim Nothenberg Under Seal with the Court using the ECF system, which sent notification of such filing to the following:

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